

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4694 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

NAGINCHANDRA JIVANLAL PARMAR

Appearance:

1. Special Civil Application No. 4694 of 2004
MR ASHISH M DAGLI for Petitioner No. 1
MR RC JANI for Respondent No. 1
MR MENGDEY, Ld. AGP for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 16/04/2004

ORAL JUDGEMENT

1. Rule. Mr.Jani, learned Counsel appears for

respondent employee and waives service of Rule on behalf the private respondent, and Mr.Mengdey, learned AGP who is directed to appear on behalf of the Controlling Authority, under the Payment of Gratuity Act, waives service of rule.

2. The present petition is preferred by the petitioner Corporation for challenging the legality and validity of the order passed by the Appellate Authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as "the Act").

3. I have heard Mr.Dagli, learned Counsel for the petitioner, Mr.Jani, learned Counsel for the respondent employee and Mr.Mengdey, learned AGP for the respondent Authority.

4. There is no dispute on the point that the questions which are raised in this petition are covered by the decision of this Court dated 11-2-2004 in SCA No.8080/2003 and allied matters. Mr.Jani, appearing for the concerned respondent employee, states that his client is also ready to forego the interest for delayed payment, if the Hon'ble Court is inclined to give the same directions for allowing the withdrawal of the principal amount which is already deposited by the petitioner Corporation with the Appellate Authority.

5. In view of the above, for the reasons recorded by this Court in the aforesaid decision dated 11-2-2004 in SCA No.8080/2003 and allied matters, I find that the present petition deserves to be allowed and is allowed and as a consequence thereof, the orders passed by the Controlling Authority as well as by the Appellate Authority impugned in this petition are quashed and set aside. However, it is further directed that the respondent employee shall be allowed to withdraw the principal amount as payment of gratuity and the amount of interest out of the amount deposited, if any, by the Corporation shall be refunded to the Corporation by the Appellate Authority/Controlling Authority forthwith. The petition is allowed to the aforesaid extent. Rule made absolute accordingly. Considering the facts and circumstances of the case, there will be no order as to costs. In addition to the petitioner, office may also supply copy of the order to the respondent employee concerned.

16-4-2004 (Jayant Patel, J.)

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